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18 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
19 **FOR THE COUNTY OF SACRAMENTO**

20 **Jose Nunez**, an individual,

21 Plaintiff,
22 vs.

23 **California Custom Sunrooms & Patio Covers,**
24 **Inc., dba California Sunrooms**, a California
25 Corporation; **Abe Alvi**, an individual; and **Does**
26 **1-10**, inclusive,

26 Defendants.

CASE NO. 34-2020-00286923

[Assigned for Law and Motion to Judge Shama H.
Mesiwala, Dept. 53]

CLASS ACTION

**JOINT STIPULATION OF SETTLEMENT
AND RELEASE OF CLASS ACTION**

Complaint Filed: October 09, 2020

Trial Date: None Set.

1 This Joint Stipulation of Settlement and Release of Class Action (“Agreement” or “Settlement
2 Agreement”) is made and entered into by and between Plaintiff Jose Nunez (“Plaintiff” or “Class
3 Representative”), as an individual and on behalf of all others similarly situated, and Defendants
4 California Custom Sunrooms & Patio Covers, Inc., dba California Sunrooms and Abe Alvi
5 (“Defendants”) (Plaintiff and Defendants are referred to herein as the “Parties”).

6 This Stipulation is subject to the approval of the Court, pursuant to California Rules of Court,
7 Rule 3.769(c), (d) and (e), and is made for the sole purpose of attempting to consummate settlement of
8 the Action on a class-wide basis subject to the following terms and conditions.

9 This settlement shall be binding on Plaintiff and the Settlement Class and Aggrieved Employees
10 Plaintiff represents, on the one hand, and Defendants, on the other, subject to the terms and conditions
11 hereof and the approval of the Court.

12 **RECITALS**

13 1. Nunez’s complaint was filed on October 09, 2020 against Defendants in Sacramento
14 County Superior Court entitled *Jose Nunez v. California Custom Sunrooms & Patio Covers, Inc., et al.* Case
15 Number No. 34-2020-00286923, which sets forth the following causes of action: (1) failure to pay
16 minimum wage for all hours worked; (2) failure to pay overtime wages; (3) failure to provide meal
17 periods; (4) failure to provide rest periods; (5) failure to provide compliant wage statements ; (6) failure
18 to pay wages when due; (7) failure to reimburse expenses; (8) failure to maintain accurate payroll
19 records; (9) civil penalties under the Labor Code Private Attorneys General Act of 2004, Cal. Lab. Code
20 §§ 2698, *et seq.* (“PAGA”); and (10) Unlawful Business Practices, Cal. Bus. & Prof. Code §§ 17200, *et*
21 *seq.* (the “Action”)

22 2. Defendants deny all material allegations set forth in the Action and have asserted
23 numerous affirmative and other defenses.

24 3. Notwithstanding, in the interest of avoiding further litigation, the Parties desire to fully
25 and finally settle all actual or potential claims by the Class Members.

26 4. Class Counsel has conducted significant investigation during the prosecution of the
27 Action. This investigation has included, among other things, (a) numerous telephonic conferences with
28 Plaintiff; (b) inspection and analysis of numerous payroll and policy documents and other information

1 produced by Plaintiff and Defendants; (c) analysis of the legal positions taken by Defendants; (d)
2 investigation into the viability of class treatment of the claims asserted in the Action; (e) analysis of
3 potential class-wide damages, including information sufficient to understand Defendants' potential
4 defenses to Plaintiff's claims; (f) research of the applicable law with respect to the claims asserted in the
5 Action and the potential defenses thereto; (g) assembling and analyzing of data for calculating damages;
6 and (h) hiring the services of an expert to analyse and prepare Defendants' exposure.

7 5. The extensive informal discovery conducted in this matter, as well as discussions between
8 counsel, have been adequate to give the Class Representative and Class Counsel a sound understanding
9 of the merits of their positions and to evaluate the risks of continued litigation and the value of the
10 Settlement Class' claims. The informal discovery and investigation conducted in this Action and the
11 information exchanged by the Parties through discovery and settlement discussions are sufficient to
12 reliably assess the merits of the Parties' respective positions and to compromise the issues on a fair and
13 equitable basis.

14 6. On August 12, 2021, the Parties participated in mediation before David L. Perrault of
15 Judicate West (the "Mediator"), a well-respected mediator of employment and wage and hour class
16 actions. At the mediation, the Parties agreed to the principal terms of a class action and PAGA
17 settlement and entered into a Memorandum of Understanding ("MOU") setting forth those terms.

18 7. The settlement discussions before, during, and after mediation were conducted at arm's
19 length and the settlement is the result of an informed and detailed analysis of Defendants' alleged
20 potential liability in relation to the costs and risks associated with continued litigation.

21 8. Plaintiff and Class Counsel believe that the claims, causes of action, allegations, and
22 contentions asserted in the Action have merit. However, Plaintiff and Class Counsel recognize and
23 acknowledge the expense and delay of continued lengthy proceedings necessary to prosecute the Action
24 against Defendants through trial and through appeals. Class Counsel has taken into account the
25 uncertain outcome of the litigation, the risk of continued litigation in complex actions such as this, as
26 well as the difficulties and delays inherent in such litigation, and the potential difficulty of obtaining
27 certification of the Action as well as trying the claims of the class. Class Counsel is mindful of the
28 potential problems of proof under, and possible defenses to, the claims alleged in the Action and

litigation of those claims on a class-wide basis.

9. Class Counsel believes that the Settlement set forth in this Stipulation confers substantial benefits upon Plaintiff and the Class Members and that an independent review of this Stipulation by the Court in the approval process will confirm this conclusion. Based on their own independent investigation and evaluation, Class Counsel has determined that the Settlement set forth in the Stipulation is in the best interests of Plaintiff and the Class Members.

10. Based on the data and documents produced during informal discovery and in response to a Labor Code sections 226 and 1198.5 records request, Class Counsel's own independent investigation and evaluation, and the Mediator's efforts, Class Counsel believes that the settlement with Defendants for the consideration and on the terms set forth in this Settlement Agreement is fair, reasonable, and adequate and is in the best interest of the Class Members in light of all known facts and circumstances, including the risk of significant delay and uncertainty associated with litigation, various defenses asserted by Defendants, the sharply contested legal and factual issues involved, and numerous appellate issues.

11. This Settlement Agreement is made and entered into by and between Plaintiff, individually and on behalf of all others similarly situated and aggrieved, and Defendants, and is subject to the terms and conditions hereof, and to the Court's approval. The Parties expressly acknowledge that this Agreement is entered into solely for the purpose of compromising significantly disputed claims and that nothing herein is an admission of any liability or wrongdoing by Defendants. If, for any reason the Settlement Agreement is not approved, it will be of no force or effect, and the Parties shall be returned to their original respective positions.

12. The Parties agree to abide by the terms of the Class Settlement in good faith and to support the Class Settlement fully and to use their best efforts to defend this Class Settlement from any legal challenge, whether by appeal or collateral attack.

DEFINITIONS

The following definitions are applicable to this Settlement Agreement. Definitions contained elsewhere in this Settlement Agreement will also be effective:

1. "**Action**" means *Jose Nunez v. California Custom Sunrooms & Patio Covers, Inc., et al.*

1 Sacramento County, Case No. 34-2020-00286923.

2 2. **“Class Counsel’s Fees and Costs”** means attorneys’ fees agreed upon by the Parties
3 and approved by the Court for Class Counsel’s litigation and resolution of this Action, and all costs
4 incurred and to be incurred by Class Counsel in the Action, including, but not limited to, costs associated
5 with documenting the Settlement, securing the Court’s approval of the Settlement, responding to any
6 objections to the settlement and appeals arising therefrom, administering the Settlement, and obtaining
7 entry of a Judgment terminating this Action, and expenses for any experts. Class Counsel will request
8 attorneys’ fees not in excess of one-third of the Maximum Settlement Amount, or up to Seventy-Eight
9 Thousand Three Hundred Thirty-Three Dollars and Thirty-Three Cents. (\$78,333.33). The Class
10 Counsel’s Fees and Costs will also mean and include the additional reimbursement of Class Counsel’s
11 actual reasonable costs incurred in connection with Class Counsel’s litigation and settlement of the
12 Action, up to Fifteen Thousand Dollars and Zero Cents (\$15,000.00), subject to the Court’s approval.
13 Defendants agree not to oppose Class Counsel’s request for fees and reimbursement of costs as set forth
14 above.

15 3. **“Settlement Administrator”** means a third-party class action settlement claims
16 administrator selected by Plaintiff and approved by the Court for purposes of administering this
17 settlement. Plaintiff will select a Settlement Administrator that has proposed a contract for services with
18 a fee not to exceed \$15,000. The Parties each represent that they will not select a Settlement
19 Administration in which either have any financial interest or other relationship that could create a
20 conflict of interest.

21 4. **“Settlement Administration Costs”** means the costs payable from the Maximum
22 Settlement Amount to the Settlement Administrator for administering this Settlement, including, but
23 not limited to, printing, distributing, and tracking documents for this Settlement, calculating estimated
24 amounts per Class Member, tax reporting, distributing the appropriate settlement amounts, and
25 providing necessary reports and declarations, and other duties and responsibilities set forth herein to
26 process this Settlement, and as requested by the Parties. The Settlement Administration Costs will be
27 paid from the Maximum Settlement Amount. The Settlement Administration Costs are currently
28 estimated to be no more than Fifteen Thousand Dollars and Zero Cents (\$15,000.00).

1 5. **“Class Counsel”** means Elliot J. Siegel and Julian Burns King of King & Siegel LLP and
2 Justin Toobi of Law Offices of Justin Toobi.

3 6. **“Class List”** means a complete list of all Class Members that Defendants will diligently
4 and in good faith compile from their records and provide to the Settlement Administrator within fifteen
5 (15) calendar days after Preliminary Approval of this Settlement. The Class List will be formatted in a
6 readable Microsoft Office Excel spreadsheet and will include Class Members’ names, last-known
7 addresses, last-known telephone numbers, social security numbers, start date of employment; end date
8 of employment; number of work weeks qualifying as a Class Member during the Class Period; and the
9 total number of work weeks of all Class Members during the Class Period.

10 7. **“Class Member(s)”** or **“Settlement Class”** or the **“Class”** means all non-exempt,
11 hourly employees employed by Defendants who worked at least one shift in California from October 9,
12 2016 to the date of Preliminary Approval or November 10, 2021, whichever is earlier. Defendants
13 represent that there are approximately 38 Class Members as of August 12, 2021. This representation is
14 a material term for Plaintiff entering into this Stipulation.

15 8. **“Class Period”** means the period from October 9, 2016 to the date of Preliminary
16 Approval or November 10, 2021, whichever is earlier.

17 9. **“Class Representative”** means Plaintiff Jose Nunez (“Nunez”), who will seek to be
18 appointed as the representative for the Settlement Class.

19 10. **“Class Representative Enhancement Payment”** means the amounts to be paid to
20 Nunez in recognition of his effort and work in prosecuting the Action on behalf of Class Members and
21 negotiating the Settlement. Defendants agree not to dispute that the Class Representative will be paid,
22 subject to Court approval, up to Ten Thousand Dollars (\$10,000) from the Maximum Settlement
23 Amount for his services on behalf of the class, subject to the Court granting Final Approval of this
24 Settlement Agreement and subject to the exhaustion of any and all appeals. Should the Court reduce the
25 Class Representative Enhancement Payment, any such reduction shall revert to the Net Settlement
26 distributed to Participating Class Members.

27 11. **“Court”** means the Superior Court of California, County of Sacramento.

28 12. **“Defendants”** means California Custom Sunrooms & Patio Covers, Inc., dba California

Sunrooms and Abe Alvi.

13. **“Effective Date”** means the date on which the settlement embodied in this Settlement Agreement shall become effective and is the date after all of the following events have occurred: (i) this Settlement Agreement has been executed by all parties and by counsel for the Settlement Class and Defendants; (ii) the Court has given Preliminary Approval to the Settlement, including approving a provisional Settlement Class; (iii) notice has been given to the putative members of the Settlement Class, providing them with an opportunity to object to the terms of the Settlement or to opt-out of the Settlement; and (iv) either (1) the Court has held a formal fairness hearing and, having heard no objections to the Settlement, has given Final Approval to the Settlement, including entering a final order and judgment certifying the Class and approving this Settlement Agreement; or (2) in the event there are written objections filed prior to the formal fairness hearing which are not later withdrawn or denied, the later of the following events: (a) five (5) business days after the period for filing any appeal, writ or other appellate proceeding opposing the Court’s Final Approval of the Settlement has elapsed without any appeal, writ or other appellate proceeding having been filed; or (b) five (5) business days after any appeal, writ or other appellate proceeding opposing the Settlement has been dismissed finally and conclusively with no right to pursue further remedies or relief.

14. **“Individual Settlement Payment”** means each Participating Class Member’s share of the Net Settlement Amount, to be distributed to the Class Members who do not submit a valid Request for Exclusion, to be paid without the need to submit a claim.

15. **“Labor and Workforce Development Agency Payment”** means the amount that the Parties have agreed to pay to the Labor and Workforce Development Agency (“LWDA”) in connection with the Labor Code Private Attorneys General Act of 2004 (Cal. Lab. Code §§ 2698, *et seq.* (“PAGA”)). The Parties have agreed that Fifteen Thousand Dollars and Zero Cents (\$15,000.00) of the Maximum Settlement Amount will be allocated to the resolution of any Class Members’ claims arising under PAGA. Pursuant to PAGA, Seventy-Five Percent (75%), or Eleven Thousand Two Hundred Fifty Dollars and Zero Cents (\$11,250.00), of the PAGA Settlement Amount will be paid to the California Labor and Workforce Development Agency, and Twenty-Five Percent (25%), or Three Thousand Seven Hundred Fifty Dollars and Zero Cents (\$3,750.00), of the PAGA Settlement Amount

will be paid to the Class as part of the Net Settlement Amount.

16. **“Maximum Settlement Amount”** means the maximum settlement amount of Two Hundred Thirty-Five Thousand Dollars and Zero Cents (\$235,000.00) to be paid by Defendants in full satisfaction of all claims arising from the Action, which includes all Individual Settlement Payments to Participating Class Members, the Class Representative Enhancement Payment, Settlement Administration Costs to the Settlement Administrator, the Labor and Workforce Development Agency Payment, and the Class Counsel’s Fees and Costs to Class Counsel. Defendants further agree they are responsible for employer payroll taxes, which is not included in the Maximum Settlement Amount and is to be paid in addition to the Maximum Settlement Amount. In no event will Defendants be liable for more than the Maximum Settlement Amount, *other than for employer-side payroll taxes*, except as otherwise set forth herein. The Maximum Settlement Amount is non-reversionary.

17. **“Net Settlement Amount”** means the portion of the Maximum Settlement Amount remaining after deduction of the approved Class Representative Enhancement Payment, Settlement Administration Costs, Labor and Workforce Development Agency Payment, and Class Counsel’s Fees and Costs. The Net Settlement Amount will be distributed to Participating Class Members.

18. **“Notice of Objection”** means a Class Member’s valid and timely written objection to the Settlement Agreement. For the Notice of Objection to be valid, it must include: (a) the objector’s full name, signature, address, telephone number, and the last four digits of the objector’s social security number, (b) the dates the objector was employed by Defendants in California, (c) a written statement of all grounds for the objection accompanied by any legal support for such objection, and (d) copies of any papers, briefs, or other documents upon which the objection is based.

19. **“Notice Packet”** or **“Notice”** means the Notice of Class Action Settlement and Share Form, substantially in the form attached as **Exhibit A**.

20. **“Parties”** means Plaintiff and Defendants collectively.

21. **“Participating Class Members”** means all Class Members who do not submit valid Requests for Exclusion.

22. **“Plaintiff”** means Jose Nunez.

23. **“Preliminary Approval”** means the Court order granting preliminary approval of the

Settlement Agreement and entering an order in the form attached hereto as **Exhibit B**.

24. **“Final Approval”** means the Court granting final approval of the Settlement and entering an order in the form attached hereto as **Exhibit C**.

25. **“Released Claims”** means all claims arising out of the claims and allegations made in the Action or that reasonably could have been alleged based on the factual allegations contained in the Action, including all of the following claims for relief: (a) failure to pay minimum wages, base rate wages, overtime wages, time-and-a half, and double time wages (b) failure to provide meal breaks and pay proper meal break premiums, (c) failure to provide rest periods and pay proper rest period premiums, (d) failure to provide accurate itemized wage statements, (e) failure to timely provide all wages owed at the end of employment, (f) failure to timely provide all wages owed during employment, (g) failure to reimburse expenses, (h) failure to maintain accurate payroll records, (i) unfair business practices, and (j) civil penalties under the Private Attorneys General Act (“PAGA”). It is the intent of the Parties that the judgment entered by the Court upon Final Approval of the Settlement shall have *res judicata* and/or collateral estoppel effect and be final and binding upon Plaintiff and all Participating Class Members regarding all of the Class Member Released Claims.

26. **“Release Period”** means the period from October 9, 2016 to the date of Preliminary Approval or November 10, 2021, whichever is earlier.

27. **“Released Parties”** means (i) Defendants; and (ii) each of Defendants’ respective past, present, and future parents, subsidiaries, principals, and any other person, corporation, association or partnership responsible or potentially responsible for the claims made in the Action, and the past, present, and future shareholders, directors, officers, agents, employees, attorneys, insurers, predecessors, successors, heirs, and assigns of any of the foregoing.

28. **“Request for Exclusion”** means a timely letter submitted by a Class Member indicating a request to be excluded from the Settlement. The Request for Exclusion must: (a) be signed by the Class Member; (b) contain the name, address, telephone number, and the last four digits of the Social Security Number of the Class Member requesting exclusion; (c) clearly state that the Class Member received the Notice, does not wish to participate in the Settlement, and wants to be excluded from the Settlement; (d) be returned by first class mail or equivalent to the Settlement Administrator at the

specified address; and, (e) be postmarked on or before the Response Deadline. The date of the postmark on the return mailing envelope will be the exclusive means to determine whether a Request for Exclusion has been timely submitted. A Class Member who does not request exclusion from the Settlement will be deemed a Class Member and will be bound by all terms of the Settlement, if the Settlement is granted Final Approval by the Court.

29. **“Response Deadline”** means the deadline by which Class Members must postmark to the Settlement Administrator valid Claim Forms, Requests for Exclusion, or file and serve objections to the Settlement. The Response Deadline will be forty-five (45) calendar days from the initial mailing of the Notice Packet by the Settlement Administrator, unless the 45th day falls on a Sunday or federal holiday, in which case the Response Deadline will be extended to the next day on which the U.S. Postal Service is open. The Response Deadline for Objections or Requests for Exclusion will be extended fifteen (15) calendar days for any Class Member who is re-mailed a Notice Packet by the Settlement Administrator, unless the 15th day falls on a Sunday or federal holiday, in which case the Response Deadline will be extended to the next day on which the U.S. Postal Service is open. The Response Deadline may also be extended by express agreement between Class Counsel and Defendants. Under no circumstances, however, will the Settlement Administrator have the authority to extend the deadline for Class Members to submit a Request for Exclusion, or objection to the Settlement.

30. **“Settlement”** means the agreement to resolve the Action on terms and conditions as set forth in this Settlement Agreement.

31. **“Workweeks”** means the number of weeks actually worked for each Class Member as a non-exempt employee during the Class Period. Workweeks are determined by calculating the number of days each Class Member actually worked during the Class Period, dividing by seven (7), and rounding up to the nearest whole number.

CLASS CERTIFICATION

32. Solely for purposes of settling the Action, and not for purposes of class certification should the matter not be settled or for any other reason, the Parties stipulate and agree that the requisites for establishing class certification with respect to the Settlement Class have been met and are met. More specifically, the Parties stipulate and agree for purposes of this Settlement only that:

1 a. The Settlement Class is ascertainable and so numerous as to make it impracticable to join
2 all Class Members;

3 b. There are common questions of law and fact including, but not limited to, the following:
4 i. Whether Defendants failed to pay Plaintiff and Class Members at least
5 minimum wages for all hours worked;
6 ii. Whether Defendants failed to pay Plaintiff and Class Members all
7 overtime wages;
8 iii. Whether Defendants failed to provide Plaintiff and Class Members with
9 rest and meal periods or rest and meal periods premium pay in lieu thereof;
10 iv. Whether Defendants failed to pay Plaintiff and Class Members earned
11 minimum wages, overtime wages, and rest break premiums and meal periods premiums due to Plaintiff
12 and Class Members upon discharge;
13 v. Whether Defendants failed to provide Plaintiff and Class Members with
14 complete and accurate wage statements as required by California Labor Code section 226;
15 vi. Whether Defendants failed to reimburse Plaintiff and Class Members for
16 business expenses;
17 vii. Whether Defendants engaged in unlawful and unfair business practices
18 in violation of California Business & Professions Code sections 17200 *et seq.*;
19 viii. Whether Defendants are subject to penalties pursuant to Labor Code
20 section 2699 *et seq.*

21 c. That the Class Representative' claims are typical of the claims of the members of the
22 Settlement Class.

23 d. That the Class Representative and Class Counsel will fairly and adequately protect the
24 interests of the Settlement Class.

25 e. That the prosecution of separate actions by individual members of the Settlement Class
26 would create the risk of inconsistent or varying adjudications, which would establish incompatible
27 standards of conduct.

28 33. With respect to the Settlement Class, the Class Representative believes that questions of

law and fact common to the members of the Settlement Class predominate over any questions affecting any individual member in such Class, and a class action is superior to other available means for the fair and efficient adjudication of the controversy.

TERMS OF AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants, promises and agreements set forth herein, the Parties agree, subject to the Court's approval, as follows:

34. Funding of the Maximum Settlement Amount. Within ten (10) calendar days after the Effective Date, the Settlement Administrator will provide the Parties with an accounting of the amounts to be paid by Defendants pursuant to the terms of the Settlement. The Settlement will then be funded as follows:

- Within fifteen (15) business days after the Settlement Administrator provides the Parties with the accounting of amounts to be paid, or June 1, 2022, whichever is later, Defendants will make the first deposit required deposit of the Maximum Settlement Amount in the amount of \$117,500 ("First Installment"); and
- On or before January 15, 2023, Defendants will make the second deposit required deposit of the Maximum Settlement Amount in the amount of \$117,500 *plus* the employer portion of all applicable payroll taxes ("Second Installment").

Both the First and Second Installments will be deposited into a Qualified Settlement Account to be established by the Settlement Administrator.

Within ten (10) business days of the funding of the First Installment, the Settlement Administrator will issue payments to (a) the Settlement Administrator; (b) the Labor and Workforce Development Agency; (c) Class Representative; and (d) Class Counsel, in the amount approved by the Court in the Final Approval. To the extent that funds remain after these payments, the Settlement Administrator shall also send pro rata payments to Participating Class Members.

Within ten (10) business days of the funding of the Second Installment, the Settlement Administrator will issue all remaining payments to Participating Class Members.

35. Class Counsel's Fees and Costs. Defendants agree not to oppose or impede any application or motion by Class Counsel for Class Counsel's Fees and Costs of up to one-third of the

Maximum Settlement Amount, or Seventy-Eight Thousand Three Hundred Thirty-Three Dollars and Thirty-Three Cents (\$78,333.33), plus the reimbursement of actual reasonable costs and expenses incurred in connection with Class Counsel's litigation and settlement of the Action, up to Fifteen Thousand Dollars and Zero Cents (\$15,000), both of which will be paid from the Maximum Settlement Amount.

36. Class Representative Enhancement Payment. In exchange for a general release, and in recognition of his effort and work in prosecuting the Action on behalf of Class Members and negotiating the Settlement, Defendants agree not to oppose or impede any application or motion for a Class Representative Enhancement Payment of up to a total of Ten Thousand Dollars and Zero Cents (\$10,000.00) to the Class Representative, subject to the Court's approval. The Class Representative Enhancement Payment, which will be paid from the Maximum Settlement Amount, will be in addition to Plaintiff's Individual Settlement Payment paid pursuant to the Settlement. The Class Representative agrees to execute a general release of all claims, including a waiver of California Civil Code § 1542, against Defendants for this payment, which this Stipulation includes. The Settlement Administrator will issue an IRS Form 1099 for the enhancement payment to the Class Representative, and the Class Representative shall be solely and legally responsible for correctly characterizing this compensation for tax purposes and for paying any taxes on the amount received. Should the Court reduce the Class Representative Enhancement Payment, any such reduction shall revert to the Net Settlement distributed to Participating Class Members.

37. Settlement Administration Costs. The Settlement Administrator will be paid for the reasonable costs of administration of the Settlement and distribution of payments from the Maximum Settlement Amount, which is currently estimated to be no more than \$15,000.00. These costs, which will be paid from the Maximum Settlement Amount, will include, *inter alia*, the required tax reporting on the Individual Settlement Payments, the issuing of 1099 IRS Forms, distributing the Notice Packet, calculating and distributing the Maximum Settlement Amount and Class Counsel's Fees and Costs, and providing necessary reports and declarations. Under no circumstances will the Settlement Administration Costs exceed \$15,000.

38. Labor and Workforce Development Agency Payment. Subject to Court approval, the

Parties agree that the amount of Fifteen Thousand Dollars and Zero Cents (\$15,000.00) of the Maximum Settlement Amount will be designated for satisfaction of Plaintiff's and Class Members' PAGA claims. Pursuant to PAGA, Seventy-Five Percent (75%), or Eleven Thousand Two Hundred Fifty Dollars and Zero Cents (\$11,250.00), will be paid to the LWDA, and Twenty-Five Percent (25%), or Three Thousand Seven Hundred Fifty Dollars and Zero Cents (\$3,750.00), will be distributed to Participating Class Members as part of the Net Settlement Amount.

39. Net Settlement Amount. "Net Settlement Amount" shall mean the Maximum Settlement Amount *minus* Settlement Administration Costs, Class Counsel's Fees and Costs, Class Representative Enhancement Payment, and Labor and Workforce Development Agency Payment.

40. Settlement Administration Cost Decreases. Any portion of the estimated or designated Settlement Administration Costs which are not in fact required to fulfill the total Settlement Administration Costs will become part of the Net Settlement Amount.

41. Individual Settlement Payment Calculations. Individual Settlement Payments will be calculated and apportioned from the Net Settlement Amount based on the Workweeks a Participating Class Member worked during the Class Period. Specific calculations of Individual Settlement Payments will be made as follows:

a. The Settlement Administrator will calculate the number of Workweeks per Participating Class Member during the Class Period based on records in Defendants' possession, custody or control. Defendants' Workweek data will be presumed to be correct, unless a particular Class Member proves otherwise to the Settlement Administrator by credible written evidence. All Workweek disputes will be resolved and decided by the Settlement Administrator in consultation with Class Counsel and counsel for Defendants. The Settlement Administrator's decision on all Workweek disputes will be final and non-appealable.

b. The Settlement Administrator will calculate the total number of Workweeks for each individual Participating Class Member ("Individual Workweeks"). For Participating Class Members who were classified as "Field" employees, the Settlement Administrator will adjust each Participating Class Member's Individual Workweeks by multiplying the number of Individual Workweeks by 1.2 to account for the Field employees' alleged overtime claims arising from Defendants' driving time policies

(“Adjusted Individual Workweeks”). The Settlement Administrator will calculate the total number of Workweeks for all Participating Class Members during the Class Period by adding the Individual Workweeks for each non-Field employee and the Adjusted Individual Workweeks for each Field employee (“Class Workweeks”).

c. To determine each Participating Class Member’s “Individual Settlement Payment” the Settlement Administrator will use the following method:

- i) All former employees will be allocated \$150.00 to account for their claims to waiting time penalties pursuant to Labor Code section 203 (“203 Adjustment”);
- ii) An amount equal to the total amount allocated under subsection (i) will be “deducted” from the Net Settlement Amount to derive the “Adjusted Net Settlement Amount”;
- iii) Non-Field employees: $(\text{Adjusted Net Settlement Amount} \div \text{Class Workweeks} \times \text{Individual Workweeks}) + \text{any applicable 203 Adjustment} = \text{Individual Settlement Payment}$.
- iv) Field employees: $(\text{Adjusted Net Settlement Amount} \div \text{Class Workweeks} \times \text{Adjusted Individual Workweeks}) + \text{any applicable 203 Adjustment} = \text{Individual Settlement Payment}$.

42. Settlement Awards Do Not Trigger Additional Benefits. All Individual Settlement Payments to Participating Class Members shall be deemed to be paid to such Participating Class Members solely in the year in which such payments actually are received by the Participating Class Members. It is expressly understood and agreed that the receipt of such Individual Settlement Payments will not entitle any Participating Class Member to additional compensation or benefits under any company bonus, commission or other compensation or benefit plan or agreement in place during the period covered by the Settlement, nor will it entitle any Participating Class Member to any increased retirement, 401K benefits or matching benefits, or deferred compensation benefits. It is the intent of this Settlement that the Individual Settlement Payments provided for in this Settlement are the sole payments to be made by Defendants to the Participating Class Members, and that the Participating Class Members are not entitled to any new or additional compensation or benefits as a result of having received the Individual Settlement Payments (notwithstanding any contrary language or agreement in any benefit or compensation plan document that might have been in effect during the period covered by this Settlement).

1 43. Settlement Administration Process. The Parties agree to cooperate in the administration
2 of the settlement and to make all reasonable efforts to control and minimize the costs and expenses
3 incurred in administration of the Settlement.

4 44. Delivery of the Class List. Within five (5) business days of Preliminary Approval,
5 Defendants will provide the Class List to the Settlement Administrator.

6 45. Notice by First-Class U.S. Mail. Within ten (10) calendar days following receipt of the
7 Class List, the Settlement Administrator will mail a Notice Packet, in the form attached hereto as
8 **Exhibit A**, to all Class Members via regular First-Class U.S. Mail, using the most current, known mailing
9 addresses identified in the Class List. Each Notice Packet will provide: (a) information regarding the
10 nature of the Action; (b) a summary of the Settlement's principal terms; (c) the Settlement Class
11 definition; (d) each Class Member's estimated Individual Settlement Payment and the formula for
12 calculating Individual Settlement Payments; (e) the dates which comprise the Class Period; (f)
13 instructions on how to submit valid Requests for Exclusion or objections; (g) the deadlines by which the
14 Class Member must fax or postmark Requests for Exclusions or file and serve objections to the
15 Settlement; (h) the claims to be released, as set forth herein; and (i) the date for the Final Approval
16 Hearing.

17 46. Confirmation of Contact Information in the Class Lists. Prior to mailing, the Settlement
18 Administrator will perform a search based on the National Change of Address Database for information
19 to update and correct for any known or identifiable address changes. Any Notice Packets returned to the
20 Settlement Administrator as non-deliverable on or before the Response Deadline will be sent promptly
21 via regular First-Class U.S. Mail to the forwarding address affixed thereto and the Settlement
22 Administrator will indicate the date of such re-mailing on the Notice Packet. If no forwarding address is
23 provided, the Settlement Administrator will promptly attempt to determine the correct address using a
24 skip-trace, or other search using the name, address and/or Social Security number of the Class Member
25 involved, and will then perform a single re-mailing. Those Class Members who receive a re-mailed
26 Notice Packet, whether by skip-trace or by request, will have between the later of (a) an additional fifteen
27 (15) calendar days or (b) the Response Deadline to fax or postmark a Request for Exclusion, or file and
28 serve an objection to the Settlement.

1 47. The Settlement Administrator shall exercise its best judgment to determine the current
2 mailing address for each Class Member. The address identified by the Settlement Administrator as the
3 current mailing address shall be presumed to be the best mailing address for each Class Member.

4 48. Disputed Information on Notice Packets. Class Members will have an opportunity to
5 dispute the information provided in their Notice Packets. To the extent Class Members dispute the
6 number of weeks he/she worked during the Class Period, or the amount of their Individual Settlement
7 Payment, Class Members may produce evidence to the Settlement Administrator showing that such
8 information is inaccurate. Absent evidence rebutting Defendants' records, Defendants' records will be
9 presumed determinative. However, if a Class Member produces evidence to the contrary, the
10 Settlement Administrator will evaluate the evidence submitted by the Class Member in consultation
11 with Class Counsel and counsel for Defendants and will make the final decision as to the Individual
12 Settlement Payment to which the Class Member may be entitled.

13 49. Request for Exclusion Procedures. Any Class Member wishing to opt-out from the
14 Settlement Agreement must sign and postmark a written Request for Exclusion to the Settlement
15 Administrator within the Response Deadline. The date of the postmark on the return mailing envelope
16 will be the exclusive means to determine whether a Request for Exclusion has been timely submitted.
17 All Requests for Exclusion will be submitted to the Settlement Administrator, who will certify jointly to
18 Class Counsel and Defendants' Counsel the Requests for Exclusion that were timely submitted. Any
19 Class Member who submits a Request for Exclusion shall be prohibited from objecting to the Settlement
20 Agreement.

21 50. Settlement Terms Bind All Class Members Who Do Not Opt-Out. Any Class Member
22 who does not affirmatively opt-out of the Settlement Agreement by submitting a timely and valid
23 Request for Exclusion will be bound by all of its terms, including those pertaining to the Released Claims,
24 as well as any Judgment that may be entered by the Court if it grants Final Approval to the Settlement.

25 51. Objection Procedures. To object to the Settlement Agreement, a Class Member must file
26 a valid Notice of Objection with the Settlement Administrator on or before the Response Deadline. The
27 Settlement Administrator shall serve all objections as received on Class Counsel and Defendants'
28 Counsel, as well as file all such objections with the Court. The Notice of Objection shall be signed by

the Class Member and contain all information required by this Settlement Agreement. The postmark date of the filing and service will be deemed the exclusive means for determining that the Notice of Objection is timely. At no time will any of the Parties or their counsel seek to solicit or otherwise encourage Class Members to object to the Settlement Agreement or appeal from the Order and Judgment. Class Counsel will not represent any Class Members with respect to any such objections to this Settlement.

52. Certification Reports Regarding Individual Settlement Payment Calculations. The Settlement Administrator will provide Defendants' counsel and Class Counsel a weekly report which certifies: (a) the number of Class Members who have submitted valid Requests for Exclusion; and (b) whether any Class Member has submitted a challenge to any information contained in their Claim Form or Notice Packet. Additionally, the Settlement Administrator will provide to counsel for both Parties any updated reports regarding the administration of the Settlement Agreement as needed or requested. No later than fourteen (14) days prior to the deadline for Class Counsel to file its motion in support of the Final Approval and Fairness Hearing, the Settlement Administrator will compile and deliver to Class Counsel and Defense Counsel a declaration with summary information of the Notice process, including but not limited to (a) the total amount of final Individual Settlement Payments of each Settlement Class Member (b) the number of Settlement Class Members to receive such payments, (c) the final number of requests for exclusion/Opt-Outs and objections, (d) the Settlement Administrator's qualifications for administration, and (e) an explanation of the steps taken to implement the Notice process as set forth in this Agreement.

53. Uncashed Settlement Checks. Any checks issued by the Settlement Administrator to Participating Class Members will be negotiable for 120 calendar days from the date the check was issued. Upon the expiration of 120 calendar days, uncashed settlement award checks will not be re-issued, except for good cause and as mutually agreed upon by the Parties in writing. All uncashed checks will be escheated to the Controller of the State of California to be held pursuant to the Unclaimed Property Law, California Civil Code § 1500, *et seq.*, for the benefit of those Settlement Class members who did not cash their checks until such time that they claim their property.

54. Certification of Completion. Upon completion of administration of the Settlement, the

Settlement Administrator will provide a written declaration under oath to certify such completion to the Court and counsel for all Parties.

55. Treatment of Individual Settlement Payments. All Individual Settlement Payments will be allocated as follows: of each Individual Settlement Payment, 33% will be allocated as alleged unpaid wages, and 67% will be allocated as alleged unpaid civil penalties, alleged unpaid interest, and expense reimbursement. The percentage of each Individual Settlement Payment allocated as wages will be reported on an IRS Form W-2 by the Settlement Administrator. The remaining percentage of each Individual Settlement Payment allocated as interest, penalties and reimbursement will be reported on an IRS Form-1099 by the Settlement Administrator.

56. Administration of Taxes by the Settlement Administrator. The Settlement Administrator will be responsible for issuing to Plaintiff, Participating Class Members, and Class Counsel any W-2, 1099, or other tax forms as may be required by law for all amounts paid pursuant to this Agreement. Within five (5) business days after the Effective Date, the Settlement Administrator will provide the Parties with an accounting of the amounts to be paid by Defendants pursuant to the terms of the Settlement, including the amount of the employer contribution for payroll taxes to be paid by Defendants.

57. Tax Liability. Defendants make no representation as to the tax treatment or legal effect of the payments called for hereunder, and Class Representative, Participating Class Members, and Class Counsel are not relying on any statement, representation, or calculation by Defendants or by the Settlement Administrator in this regard. Class Representative, Participating Class Members, and Class Counsel understand and agree that they will be solely responsible for the payment of any taxes and penalties assessed on the payments described herein and will defend, indemnify, and hold Defendants free and harmless from and against any claims resulting from treatment of such payments as non-taxable damages.

58. Circular 230 Disclaimer. EACH PARTY TO THIS AGREEMENT (FOR PURPOSES OF THIS SECTION, THE "ACKNOWLEDGING PARTY" AND EACH PARTY TO THIS AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN "OTHER PARTY") ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS AGREEMENT, AND NO

1 WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES OR
2 THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR WILL
3 ANY SUCH COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR
4 BE RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES
5 TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE
6 ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS, HER OR ITS OWN,
7 INDEPENDENT LEGAL AND TAX COUNSEL FOR ADVICE (INCLUDING TAX ADVICE) IN
8 CONNECTION WITH THIS AGREEMENT, (B) HAS NOT ENTERED INTO THIS
9 AGREEMENT BASED UPON THE RECOMMENDATION OF ANY OTHER PARTY OR ANY
10 ATTORNEY OR ADVISOR TO ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY
11 UPON ANY COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISER TO
12 ANY OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE
13 ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISER TO ANY OTHER PARTY
14 HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY OF ANY
15 SUCH ATTORNEY'S OR ADVISER'S TAX STRATEGIES (REGARDLESS OF WHETHER
16 SUCH LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE
17 ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY
18 TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS
19 AGREEMENT.

20 59. No Prior Assignments. The Parties and their counsel represent, covenant, and warrant
21 that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign,
22 transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause
23 of action or right herein released and discharged.

24 60. Release of Claims by Class Members. Upon the Effective Date, Plaintiff and all
25 Participating Class Members will be deemed to have fully, finally and forever released, settled,
26 compromised, relinquished, and discharged with respect to all of the Released Parties any and all
27 Released Claims. The Settlement Class and each Participating Class Member, fully releases and
28 discharges the Released Parties for the Released Claims for any period during the Released Claims

1 Period.

2 Participating Class Members will be deemed to have acknowledged and agreed that their claims
3 for wages and/or penalties in the Action are disputed, and that their Individual Settlement Payment
4 constitutes payment of all sums allegedly due to them. Participating Class Members will be deemed to
5 have acknowledged and agreed that California Labor Code Section 206.5 is not applicable to the
6 Individual Settlement Payment. That section provides in pertinent part as follows:

7
8 **An employer shall not require the execution of a release of a claim or right on**
9 **account of wages due, or to become due, or made as an advance on wages to be**
10 **earned, unless payment of those wages has been made.**

11 61. **Plaintiff's Released Claims.** In addition to the Participating Class Members' Released
12 Claims described above, in exchange for the consideration recited in this Stipulation, including but not
13 limited to the Class Representative Enhancement Award, Plaintiff releases, acquits, and discharges and
14 covenants not to sue any of the Released Parties for any claim, whether known or unknown, which he
15 has ever had, or hereafter may claim to have, arising on or before the date he signs this Stipulation,
16 including without limitation to, any claims relating to or arising out of any aspect of his relationship with
17 Defendants, or the termination of that relationship, any claims for unpaid compensation, wages,
18 reimbursement for business expenses, penalties, or waiting time penalties under the California Labor
19 Code, the California Business and Professions Code, the federal Fair Labor Standards Act, 29 U.S.C.
20 section 201, *et seq.*, or any state, county or city law or ordinance regarding wages or compensation; any
21 claims for employee benefits including without limitation, any claims under the Employment Retirement
22 Income Security Act of 1974; any claims of employment discrimination on any basis, including without
23 limitation, any claims under Title VII of the Civil Rights Act of 1964, the Civil Rights Act of 1866, 42
24 U.S.C. section 1981, the Civil Rights Act of 1991, the Americans with Disabilities Act of 1991, the Family
25 and Medical Leave Act of 1993, the California Government Code, or any other state, county or city law
26 or ordinance regarding employment discrimination. Plaintiff acknowledges and agrees that the foregoing
27 general release is given in exchange for the consideration provided to him under this Stipulation by
28 Defendants. However, this release shall not apply to claims for workers' compensation benefits,
unemployment insurance benefits, pension or retirement benefits, or any other claim or right that as a

1 matter of law cannot be waived or released.

2 Plaintiff expressly waives any rights or benefits available to him under the provisions of Section
3 1542 of the California Civil Code, which provides as follows:

4 **A general release does not extend to claims that the creditor or releasing party does**
5 **not know or suspect to exist in his or her favor at the time of executing the release**
6 **and that, if known by him or her, would have materially affected his or her**
7 **settlement with the debtor or released party.**

8 Plaintiff understands fully the statutory language of Civil Code Section 1542 and, with this
9 understanding, nevertheless he elects to, and does, assume all risks for claims that have arisen, whether
10 known or unknown, which he had, or hereafter may claim to have, arising on or before the date of his
11 signature to this Stipulation, and specifically waives all rights he may have under the California Civil
12 Code section 1542.

13 62. Duties of the Parties Prior to Court Approval. The Parties shall promptly submit this
14 Settlement Agreement to the Court in support of Plaintiff's Motion for Preliminary Approval and
15 determination by the Court as to its fairness, adequacy, and reasonableness. Promptly upon execution
16 of this Settlement Agreement, the Parties shall apply to the Court for the entry of an order, in the form
17 attached hereto as **Exhibit B**, for:

18 a. Scheduling a fairness hearing on the question of whether the proposed Settlement,
19 including but not limited to, payment of Class Counsel's fees and costs, and the Class Representative
20 Enhancement Payment, should be finally approved as fair, reasonable and adequate as to the members
21 of the Settlement Class;

22 b. Certifying a provisional Settlement Class;

23 c. Approving, as to form and content, the proposed Notice;

24 d. Approving the manner and method for Class Members to request exclusion from the
25 Settlement as contained herein and within the Notice;

26 e. Directing the mailing of the Notice, by first class mail to the Class Members; and

27 f. Giving Preliminary Approval to Settlement subject only to the objections of Class
28 Members and final review by the Court.

63. Duties of the Parties Following Final Court Approval. Following Final Approval by the

1 Court of the Settlement provided for in this Settlement Agreement, Class Counsel will submit a
2 proposed final order of approval and judgment, in the form attached hereto as **Exhibit C**, for:

3 a. Approving the Settlement, adjudging the terms thereof to be fair, reasonable and
4 adequate, and directing consummation of its terms and provisions;

5 b. Approving Class Counsel's application for an award of attorneys' fees and costs;

6 c. Approving the Class Representative Enhancement Payment to the Class Representative;

7 d. Approving the Settlement Administration Costs of the Settlement Administrator; and

8 e. Entering judgment in this Action.

9 64. Rescission of Settlement Agreement (by Defendants). If more than ten percent (10%) of
10 the Class Members opt-out of the Settlement by submitting Request for Exclusion forms, Defendants
11 may, at their option, rescind and void the Settlement and all actions taken in furtherance of it will thereby
12 be null and void. Defendants must exercise this right of rescission, in writing, to Class Counsel within
13 fourteen (14) calendar days after the Settlement Administrator notifies the Parties of the total number
14 of Requests for Exclusion received by the Response Deadline. If the option to rescind is exercised,
15 Defendants shall be solely responsible for all costs of the Settlement Administrator accrued to that point.

16 65. Nullification of Settlement Agreement. In the event that: (a) the Court does not finally
17 approve the Settlement as provided herein; or (b) the Settlement does not become final for any other
18 reason, then this Settlement Agreement, and any documents generated to bring it into effect, will be null
19 and void. Any order or judgment entered by the Court in furtherance of this Settlement Agreement will
20 likewise be treated as void from the beginning. In such event, if the Court rejects the Settlement despite
21 the Parties' best efforts, the Parties will be equally liable for all Settlement Administration costs
22 incurred. If the Court rejects the Settlement for reasons related to the conduct of one Party, that Party
23 will be liable for all Settlement Administration costs incurred.

24 66. Preliminary Approval Hearing. Plaintiff will obtain a hearing before the Court to request
25 the Preliminary Approval of the Settlement Agreement, and the entry of a Preliminary Approval Order
26 for: (a) conditional certification of the Settlement Class for settlement purposes only, (b) Preliminary
27 Approval of the proposed Settlement Agreement, and (c) setting a date for a Final Approval/Settlement
28 Fairness Hearing. The Preliminary Approval Order will provide for the Notice Packet to be sent to all

Class Members as specified herein. In conjunction with the Preliminary Approval hearing, Plaintiff will submit this Settlement Agreement, which sets forth the terms of this Settlement, and will include the proposed Notice Packet; *i.e.*, the proposed Notice of Class Action Settlement document, attached as **Exhibit A**. Class Counsel will be responsible for drafting all documents necessary to obtain Preliminary Approval. Defendants agree not to oppose the Motion for Preliminary Approval.

67. **Final Settlement Approval Hearing and Entry of Judgment**. Upon expiration of the deadlines to Requests for Exclusion, or objections to the Settlement Agreement, and with the Court's permission, a Final Approval/Settlement Fairness Hearing will be conducted to determine the Final Approval of the Settlement Agreement along with the amounts properly payable for (a) Individual Settlement Payments; (b) the Labor and Workforce Development Agency Payment; (c) the Class Counsel's Fees and Costs; (d) the Class Representative Enhancement Payment; (e) all Settlement Administration Costs; and (f) the employer's share of payroll taxes for wages paid in connection with the Individual Settlement Payments. Class Counsel will be responsible for drafting all documents necessary to obtain Final Approval, including responding to any objections and appeals arising therefrom. Class Counsel will also be responsible for drafting the attorneys' fees and costs application to be heard at the Final Approval hearing.

68. **Termination of Settlement**. Subject to the obligation(s) of cooperation set forth herein, either Party may terminate this Settlement if the Court declines to enter the Preliminary Approval Order, the Final Approval Order or final judgment in substantially the form submitted by the Parties, or the Settlement Agreement as agreed does not become final because of appellate court action. The Terminating Party shall give to the other Party (through its counsel) written notice of its decision to terminate no later than ten (10) business days after receiving notice that one of the enumerated events has occurred. Termination shall have the following effects:

a. The Settlement Agreement shall be terminated and shall have no force or effect, and no Party shall be bound by any of its terms;

b. In the event the Settlement is terminated, Defendants shall have no obligation to make any payments to any Party, Class Member or Class Counsel, except that the Terminating Party shall pay

the Settlement Administrator for services rendered up to the date the Settlement Administrator is notified that the Settlement has been terminated;

c. The Preliminary Approval Order, Final Approval Order and Judgment, including any order of class certification, shall be vacated;

d. The Settlement Agreement and all negotiations, statements and proceedings relating thereto shall be without prejudice to the rights of any of the Parties, all of whom shall be restored to their respective positions in the Action prior to the Settlement;

e. Neither this Stipulated Settlement, nor any ancillary documents, actions, statements or filings in furtherance of settlement (including all matters associated with the mediation) shall be admissible or offered into evidence in the Action or any other action for any purpose whatsoever.

69. Judgment and Continued Jurisdiction. Upon Final Approval of the Settlement by the Court or after the Final Approval/Settlement Fairness Hearing, the Parties will present the Judgment pursuant to California Code of Civil Procedure section 664.6 to the Court for its approval. After entry of the Judgment, the Court will have continuing jurisdiction for purposes of addressing: (a) the interpretation and enforcement of the terms of the Settlement, (b) Settlement administration matters, and (c) such post-Judgment matters as may be appropriate under court rules or as set forth in this Agreement.

70. Exhibits Incorporated by Reference. The terms of this Agreement include the terms set forth in any attached Exhibits, which are incorporated by this reference as though fully set forth herein. Any Exhibits to this Agreement are an integral part of the Settlement.

71. Confidentiality. The Parties and their counsel agree that they will not issue any media or press releases, initiate any contact with the media or press, respond to any media or press inquiry, or have any communication with the media or press about the fact, amount, or terms of the Settlement prior to Preliminary Approval of the Stipulation. Any communication about the Settlement to Class Members prior to the Court-approved mailing will be limited to a statement that a Settlement has been reached and the details will be communicated in a forthcoming Court-approved notice. Nothing set forth herein, however, shall prohibit the parties from providing this Agreement to the Court in connection with the Parties' efforts to seek the Court's approval of this Settlement. Nothing in this Agreement shall

1 prohibit Class Counsel from disclosing the terms of this Agreement to Courts at any time in the future
2 for purposes of establishing Class Counsel's adequacy as class counsel.

3 72. Entire Agreement. This Settlement Agreement, the general release of all claims by the
4 Class Representative, and any attached Exhibits constitute the entirety of the Parties' settlement terms.
5 No other prior or contemporaneous written or oral agreements may be deemed binding on the Parties.
6 The Parties expressly recognize California Civil Code section 1625 and California Code of Civil
7 Procedure section 1856(a), which provide that a written agreement is to be construed according to its
8 terms and may not be varied or contradicted by extrinsic evidence, and the Parties agree that no such
9 extrinsic oral or written representations or terms will modify, vary or contradict the terms of this
10 Agreement.

11 73. Amendment or Modification. This Settlement Agreement may be amended or modified
12 only by a written instrument signed by the named Parties and counsel for all Parties or their successors-
13 in-interest.

14 74. Authorization to Enter Into Settlement Agreement. Counsel for all Parties warrant and
15 represent they are expressly authorized by the Parties whom they represent to negotiate this Settlement
16 Agreement and to take all appropriate action required or permitted to be taken by such Parties pursuant
17 to this Settlement Agreement to effectuate its terms and to execute any other documents required to
18 effectuate the terms of this Settlement Agreement. The Parties and their counsel will cooperate with
19 each other and use their best efforts to effectuate the implementation of the Settlement. If the Parties
20 are unable to reach agreement on the form or content of any document needed to implement the
21 Settlement, or on any supplemental provisions that may become necessary to effectuate the terms of
22 this Settlement, the Parties may seek the assistance of the Court to resolve such disagreement.

23 75. Signatories. It is agreed that because the members of the Class are so numerous, it is
24 impossible or impractical to have each member of the Class execute this Settlement Agreement. The
25 Notice, attached hereto as Exhibit A, will advise all Class Members of the binding nature of the release,
26 and the release shall have the same force and effect as if this Settlement Agreement were executed by
27 each member of the Class.

28 76. Binding on Successors and Assigns. This Settlement Agreement will be binding upon,

and inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

77. California Law Governs. All terms of this Settlement Agreement and Exhibits hereto will be governed by and interpreted according to the laws of the State of California.

78. Execution and Counterparts. This Settlement Agreement is subject only to the execution of all Parties. However, the Agreement may be executed in one or more counterparts. All executed counterparts and each of them, including facsimile and scanned copies of the signature page, will be deemed to be one and the same instrument provided that counsel for the Parties will exchange among themselves original signed counterparts.

79. Acknowledgement that the Settlement is Fair and Reasonable. The Parties believe this Settlement Agreement is a fair, adequate, and reasonable settlement of the Action and have arrived at this Settlement after arm's-length negotiations and in the context of adversarial litigation, taking into account all relevant factors, present and potential. The Parties further acknowledge that they are each represented by competent counsel and that they have had an opportunity to consult with their counsel regarding the fairness and reasonableness of this Agreement.

80. Invalidity of Any Provision. Before declaring any provision of this Settlement Agreement invalid, the Court will first attempt to construe the provision as valid to the fullest extent possible consistent with applicable precedents so as to define all provisions of this Settlement Agreement valid and enforceable.

81. Plaintiff's Waiver of Right to Be Excluded and Object. Plaintiff agrees to sign this Settlement Agreement and, by signing this Settlement Agreement, is hereby bound by the terms herein. For good and valuable consideration, Plaintiff further agrees that he will not request to be excluded from the Settlement Agreement, nor object to any terms herein. Any such request for exclusion or objection by Plaintiff will be void and of no force or effect. Any efforts by Plaintiff to circumvent the terms of this paragraph will be void and of no force or effect.

82. Waiver of Certain Appeals. The Parties agree to waive appeals and to stipulate to class certification for purposes of this Settlement only; except, however, that Plaintiff or Class Counsel may appeal any reduction in the Class Counsel's Fees and Costs below the amount requested from the Court, and either Party may terminate this Settlement or appeal any Court order which is not in substantially

1 the form submitted by the Parties.

2 83. Non-Admission of Liability. The Parties enter into this Agreement to resolve the dispute
3 that has arisen between them and to avoid the burden, expense and risk of continued litigation. In
4 entering into this Agreement, Defendants do not admit, and specifically deny, they have violated any
5 federal, state, or local law; violated any regulations or guidelines promulgated pursuant to any statute or
6 any other applicable laws, regulations or legal requirements; breached any contract; violated or breached
7 any duty; engaged in any misrepresentation or deception; or engaged in any other unlawful conduct with
8 respect to its employees. Neither this Agreement, nor any of its terms or provisions, nor any of the
9 negotiations connected with it, shall be construed as an admission or concession by Defendants of any
10 such violations or failures to comply with any applicable law. Except as necessary in a proceeding to
11 enforce the terms of this Agreement, this Agreement and its terms and provisions shall not be offered
12 or received as evidence in any action or proceeding to establish any liability or admission on the part of
13 Defendants or to establish the existence of any condition constituting a violation of, or a non-compliance
14 with, federal, state, local or other applicable law.

15 84. Captions. The captions and section numbers in this Agreement are inserted for the
16 reader's convenience, and in no way define, limit, construe or describe the scope or intent of the
17 provisions of this Agreement.

18 85. Waiver. No waiver of any condition or covenant contained in this Agreement or failure
19 to exercise a right or remedy by any of the Parties hereto will be considered to imply or constitute a
20 further waiver by such party of the same or any other condition, covenant, right or remedy.

21 86. Enforcement Actions. In the event that one or more of the Parties institute any legal
22 action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement
23 or to declare rights and/or obligations under this Settlement, the successful Party or Parties will be
24 entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including
25 expert witness fees incurred in connection with any enforcement actions.

26 87. Mutual Preparation. The Parties have had a full opportunity to negotiate the terms and
27 conditions of this Agreement. Accordingly, this Agreement will not be construed more strictly against
28 one party than another merely by virtue of the fact that it may have been prepared by counsel for one of

the Parties, it being recognized that, because of the arm's-length negotiations between the Parties, all Parties have contributed to the preparation of this Agreement.

88. Representation By Counsel. The Parties acknowledge that they have been represented by counsel throughout all negotiations that preceded the execution of this Agreement, and that this Agreement has been executed with the consent and advice of counsel, and reviewed in full. Further, Plaintiff and Class Counsel warrant and represent that there are no liens on the Settlement Agreement.

89. All Terms Subject to Final Court Approval. All amounts and procedures described in this Settlement Agreement herein will be subject to the Court's Final Approval.

90. Notices. Unless otherwise specifically provided herein, all notices, demands or other communications given hereunder shall be in writing and shall be transmitted to a Party via email:

To Plaintiff and the Settlement Class:

Julian Burns King
Elliot J. Siegel
KING & SIEGEL LLP
elliot@kingsiegel.com
724 S. Spring Street, Suite 201
Los Angeles, California 90014

To Defendants:

Aaron B. Silva
asilva@murphyaustin.com
Shawn M. Joost
sjoost@murphyaustin.com
MURPHY AUSTIN ADAMS SCHOENFELD LLP
555 Capitol Mall, Suite 850
Sacramento, CA 95814

91. Cooperation and Execution of Necessary Documents. All Parties will cooperate in good faith and execute all documents to the extent reasonably necessary to effectuate the terms of this Settlement Agreement.

92. Binding Agreement. The Parties warrant that they understand and have full authority to enter into this Agreement, and further intend that this Agreement will be fully enforceable and binding on all parties, and agree that it will be admissible and subject to disclosure in any proceeding to enforce its terms, notwithstanding any mediation confidentiality provisions that otherwise might apply under

1 federal or state law.

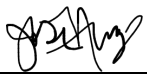
2 IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Joint
3 Stipulation of Settlement and Release Between Plaintiff and Defendants as of the date(s) set forth below:
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SIGNATURES

READ CAREFULLY BEFORE SIGNING

PLAINTIFF: Jose Nunez

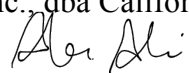
Dated: 10 / 01 / 2021



Jose Nunez

DEFENDANT: California Custom Sunrooms & Patio
Covers, Inc., dba California Sunrooms

9/27/2021
Dated: _____

By: 

Its: _____

DEFENDANT: Abe Alvi

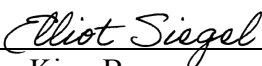
9/27/2021
Dated: _____

By: 

Its: _____

Dated: 10/1/2021

KING & SIEGEL, LLP

By 

Julian King Burns
Elliott J. Siegel
Attorneys for Plaintiff and the Settlement Class

1 Dated:

**MURPHY AUSTIN ADAMS SCHOENFELD
LLP**

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4 By 
5 Aaron B. Silva
6 Shawn M. Joost
7 Attorneys for Defendants
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Exhibit A

**NOTICE OF PROPOSED CLASS ACTION SETTLEMENT AND HEARING DATE FOR
COURT APPROVAL**

Jose Nunez, et al., v. California Custom Sunrooms & Patio Covers, Inc., et al.
Superior Court of the State of California, Sacramento County
Case No. 34-2020-00286923

*You are **not** being sued. This is **not** an ad. This notice affects your rights. Please read it carefully.*

**YOU ARE ELIGIBLE TO RECEIVE A SETTLEMENT PAYMENT. PLEASE READ
THIS NOTICE CAREFULLY.**

You have received this Notice of Class Action Settlement because California Custom Sunrooms & Patio Covers, Inc., dba California Sunrooms' and Abe Alvi's (collectively, "Defendants") records show you are what is called a "Class Member," and therefore entitled to a payment from this class action settlement ("Settlement"). **Class Members are all individuals who are or previously were employed by Defendant as hourly, non-exempt employees who worked at least one shift in the State of California from October 9, 2016 to [the date of Preliminary Approval or November 10, 2021, whichever is earlier]** ("Class Period").

On [date of preliminary approval], Honorable _____ of the Superior Court of California for the County of Sacramento granted preliminary approval of this class action Settlement and ordered that all Class Members be notified of the Settlement.

Unless you choose not to participate in the Settlement (in other words, you choose to "opt out") by following the procedures described below, you will be considered a Participating Class Member, and if the Court grants final approval of the Settlement, you will be mailed a check for your share of the Settlement fund, which is estimated to be \$ _____. The Final Fairness and Approval Hearing ("Hearing") on the adequacy, reasonableness, and fairness of the Settlement will be held at _____ .m. on _____, in Department 53 of the Superior Court of California for the County of Sacramento, located at Hall of Justice Building 813 6th Street, Sacramento, CA 95814. You are not required to attend the Hearing, but you are welcome to do so.

**IF YOU STILL WORK FOR DEFENDANT, PARTICIPATION IN THIS SETTLEMENT
WILL NOT AFFECT, OR DISRUPT YOUR WORK IN ANY MANNER.**

**YOU WILL NOT BE RETALIATED AGAINST BY DEFENDANT FOR YOUR
PARTICIPATION.** California law strictly prohibits retaliation. Further, Defendant is prohibited by law from taking any adverse action against any Class Member or otherwise targeting, retaliating, or discriminating against any Class Member because of the Class Member's participation or decision not to participate in this Settlement.

You can view the proposed Final Approval Order, Final Judgment, and payment schedule at [www._____](http://www._____.).

Questions? Contact the Settlement Claims Administrator toll free at 1-***-***-****

XXXXXXX.

What Is This Case About?

Jose Nunez was an employee of Defendant California Custom Sunrooms. He is the “Plaintiff” in this case and is suing on behalf of himself and all Class Members. Plaintiff sued Defendants claiming that he and Class Members were not paid all earned wages, including overtime wages, and meal and rest break premiums; were not provided compliant meal and rest breaks; all wages were not paid upon separation of employment; pay stubs did not contain all required information required by law; asserted that Defendant engaged in unfair competition; were not reimbursed for business expenses; and sought associated penalties under the California Labor Code and California Private Attorneys General Act of 2004 (“PAGA”).

Defendants deny they engaged in any alleged unlawful conduct. Defendants assert that t employees were properly compensated. Defendants further assert that Defendant California Custom Sunrooms has and had during the Class Period lawful wage and hour policies, practices, and procedures. The Court has made no ruling on the merits of Plaintiff’s claims.

Plaintiff entered into settlement discussions with Defendants in an attempt to resolve the disputed claims in this case. On August 12, 2021, the parties negotiated a settlement on behalf of themselves and the Class Members with the assistance of a third-party mediator. The parties’ agreement has been documented in a Joint Stipulation of Settlement and Release of Class Action (“Joint Stipulation”). The Court has preliminarily approved the Joint Stipulation. The Court will decide whether to give final approval to the Settlement at the Final Fairness and Approval Hearing.

Attorneys for Plaintiff and the Class Members (“Class Counsel”) are:

Julian Burns King
Elliot J. Siegel
KING & SIEGEL LLP
(213) 465-4802
724 S. Spring Street, Ste. 201
Los Angeles, California 90014

Justin Toobi
Law Offices of Justin Toobi, Esq.
(310) 435-9407
5101 Santa Monica Blvd, #291
Los Angeles, California 90029

Class Counsel have investigated and researched the facts and circumstances underlying the issues raised in this case and the applicable law. While Class Counsel believe Plaintiff’s claims in this lawsuit have merit, Class Counsel also recognizes that the risk and expense of continued litigation

Questions? Contact the Settlement Claims Administrator toll free at 1-*-***-*****

justify settlement. Because of this, Class Counsel believes the proposed Settlement is fair, adequate, reasonable, and in the best interests of the Class Members.

Defendants have denied, and continue to deny, Plaintiff's factual and legal allegations. By agreeing to settle, Defendants are not admitting liability on any of the factual or legal allegations or claims in this case or that this case can or should proceed as a class action.

Summary of the Settlement Terms

Plaintiff and Defendants have agreed to settle this case on behalf of themselves and the Class Members in exchange for the Maximum Settlement Amount of \$235,000.00.

The Maximum Settlement Amount includes: (1) Individual Settlement Payments to Participating Class Members; (2) subject to Court approval, up to a \$10,000 service payment to Plaintiff for his time and effort in pursuing this case and in exchange for a general release of claims against Defendant; (3) Settlement Administration Costs not to exceed \$15,000.00; (4) a \$15,000 payment for settlement of the PAGA claims; and (5) subject to Court approval of an application for fees and costs, an award of up to \$78,333.33 in attorneys' fees and up to \$15,000 in litigation costs and expenses to Class Counsel. After deducting the service payment to Plaintiff, the Claims Administration Costs, the payment to settle the PAGA claims, and attorneys' fees and costs/expenses, a total of approximately \$ will be available to Class Members who do not opt out of the Settlement ("Net Settlement Amount").

Plan of Distribution to Class Members

Individual Settlement Payments will be calculated and apportioned from the Net Settlement Amount based on the number of weeks a Participating Class Member worked during the Class Period ("Workweeks"). Specific calculations of Individual Settlement Payments will be made as follows:

- a. The Claims Administrator will calculate the number of Workweeks per Participating Class Member during the Class Period based on records in Defendant's possession, custody or control. Defendant's Workweek data will be presumed to be correct, unless a particular Class Member proves otherwise to the Claims Administrator by credible written evidence. All Workweek disputes will be resolved and decided by the Claims Administrator in consultation with Class Counsel and counsel for Defendant. The Claims Administrator's decision on all Workweek disputes will be final and non-appealable.
- b. The Claims Administrator will calculate the total number of Workweeks for each individual Class Member ("Individual Workweeks"). Workweeks are determined by calculating the number of days each Class Member actually worked during the Class Period, dividing by seven (7), and rounding up to the nearest whole number.

Questions? Contact the Settlement Claims Administrator toll free at 1-*-***-******

In addition, for Participating Class Members who were classified as “Field” employees, the Settlement Administrator will adjust each Participating Class Member’s Individual Workweeks by multiplying the number of Individual Workweeks by 1.2 to account for the Field employees’ alleged overtime claims arising from Defendants’ driving time policies. (“Adjusted Individual Workweeks”). All former employees will also be allocated a \$150.00 to account for their claims to waiting time penalties pursuant to Labor Code section 203.

- c. The Settlement Administrator will calculate the total number of Workweeks for all Class Members during the Class Period by adding the Individual Workweeks for each non-Field employee and the Adjusted Individual Workweeks for each Field employee. (“Class Workweeks”). To determine each Class Member’s “Individual Settlement Payment” the Claims Administrator will use the following formula:
- i) All former employees will be allocated a \$150.00 to account for their claims to waiting time penalties pursuant to Labor Code section 203 (“203 Adjustment”);
 - ii) An amount equal to the total amount allocated under subsection (i) will be “deducted” from the Net Settlement Amount to derive the “Adjusted Net Settlement Amount”;
 - iii) Non-Field employees: $(\text{Adjusted Net Settlement Amount} \div \text{Class Workweeks} \times \text{Individual Workweeks}) + \text{any applicable 203 Adjustment} = \text{Individual Settlement Payment}$.
 - iv) Field employees: $(\text{Adjusted Net Settlement Amount} \div \text{Class Workweeks} \times \text{Adjusted Individual Workweeks}) + \text{any applicable 203 Adjustment} = \text{Individual Settlement Payment}$.

According to Defendants’ records, you worked [REDACTED] Workweeks during the Class Period and you [are/are not] a former employee. Accordingly, your estimated payment is approximately \$ [REDACTED].

If you believe the information provided above as to the number of your Individual Workweeks is incorrect and wish to dispute it, please submit the Challenge Form attached to your attached Share Form to the Claims Administrator at [REDACTED] no later than 45 days after the date this Notice of Class Action Settlement was mailed to you. If you dispute the information stated above, the information provided to the Claims Administrator will control unless you are able to provide documentation that establishes otherwise. Any disputes, along with supporting documentation (“Disputes”), must be postmarked no later than [45 days from mailing]. **DO NOT SEND ORIGINALS; DOCUMENTATION SENT TO THE CLAIMS ADMINISTRATOR WILL NOT BE RETURNED OR PRESERVED.**

Questions? Contact the Settlement Claims Administrator toll free at 1-[REDACTED]

Class Member Tax Matters

IRS Forms W-2 and 1099-MISC will be distributed to participating Class Members and the appropriate taxing authorities reflecting the payments Class Members receive under the Settlement. Class Members should consult their tax advisors concerning the tax consequences of the payments they receive under the Settlement. For purposes of this Settlement, 33% of each Individual Settlement Payment will be allocated to alleged unpaid wages, and the remaining 67% will be allocated as alleged unpaid civil penalties, interest, and reimbursement. Again, please consult a tax advisor regarding the significance of how each Individual Settlement Payment is allocated between wages, penalties, and interest. This notice is not intended to provide legal or tax advice. To the extent this notice or any of its attachments is interpreted to contain or constitute advice regarding any United States or Federal tax issue, such advice is not intended or written to be used, and cannot be used, by any person for the purpose of avoiding penalties under the Internal Revenue Code.

Your Options Under the Settlement

Option 1 – Automatically Receive a Payment from the Settlement

If you want to receive your payment from the Settlement, then no further action is required on your part. You will automatically receive your Individual Settlement Payment from the Claims Administrator if and when the Settlement receives final approval by the Court.

If you choose **Option 1** and the Court grants final approval of the Settlement, you will be mailed a check for your share of the Settlement funds. In addition, you will be deemed to have released or waived the following claims (“Released Claims”) against the Released Parties for the Release Period

The Released Claims means:

All claims arising out of the claims and allegations made in the Action or that reasonably could have been alleged based on the factual allegations contained in the Action, including all of the following claims for relief: (a) failure to pay minimum wages, base rate wages, overtime wages, time-and-a half, and double time wages (b) failure to provide meal breaks and pay proper meal break premiums, (c) failure to provide rest periods and pay proper rest period premiums, (d) failure to provide accurate itemized wage statements, (e) failure to timely provide all wages owed at the end of employment, (f) failure to timely provide all wages owed during employment, (g) failure to reimburse expenses, (h) failure to maintain accurate payroll records, (i) unfair business practices, and (j) civil penalties under the Private Attorneys General Act (“PAGA”).

Released Parties means:

Questions? Contact the Settlement Claims Administrator toll free at 1-*-***-*****

(i) Defendants; and (ii) each of Defendants' respective past, present, and future parents, subsidiaries, principals, and any other person, corporation, association or partnership responsible or potentially responsible for the claims made in the Action, and the past, present, and future shareholders, directors, officers, agents, employees, attorneys, insurers, predecessors, successors, heirs, and assigns of any of the foregoing.

The Release Period means:

The period from October 9, 2016 to [the date of Preliminary Approval or November 10, 2021, whichever is earlier].

Option 2 – Opt Out of the Settlement

If you do not wish to participate in the Settlement, you may exclude yourself from participating by submitting a written "Request for Exclusion from The Class Action Settlement" letter or card to the Claims Administrator postmarked no later than [Response Deadline]. Your written request must expressly and clearly state:

"I WISH TO BE EXCLUDED FROM THE SETTLEMENT CLASS IN THE *JOSE NUNEZ, ET AL. V. CALIFORNIA CUSTOM SUNROOMS & PATIO COVERS, INC., ET AL.* LAWSUIT. I UNDERSTAND THAT IF I ASK TO BE EXCLUDED FROM THE SETTLEMENT CLASS, I WILL NOT RECEIVE ANY MONEY FROM THE SETTLEMENT OF THIS LAWSUIT."

The written request for exclusion must include your name, address, telephone number, and last four digits of your Social Security Number. Sign, date, and mail your written request for exclusion by U.S. First-Class Mail or equivalent, to the address below.

Claims Administrator

c/o [Name]

[Address]

Telephone: 1-888-XXX-XXXX

The written request to be excluded from the Settlement must be postmarked to the Claims Administrator not later than [Response Deadline]. If you submit a request for exclusion which is not postmarked by [Response Deadline], your request for exclusion will be rejected, and you will be included in the Settlement Class.

Do not submit both a Dispute and a Request for Exclusion. If you do, the Request for Exclusion will be invalid, you will be included in the Settlement Class, and you will be bound by the terms of the Settlement.

Questions? Contact the Settlement Claims Administrator toll free at 1-*-***-******

If you choose **Option 2**, you will no longer be a Class Member. Therefore, you (1) will not receive any payment from the Settlement, (2) will not be deemed to have released any claims due to this Settlement, and (3) will be barred from filing an objection to the Settlement.

Option 3 – File an Objection to the Settlement

If you wish to object to the Settlement, you should mail a written objection to the Claims Administrator. Your objection should provide: your full name, address and telephone number, the last four digits of your Social Security Number, the dates you were employed by Defendant in California, and your objections to the Settlement, including each specific reason in support of each objection and any legal support for each objection together with any evidence in support of your objection. Your objection should be mailed to the Claims Administrator on or before [Response Deadline].

You may also appear at the Final Fairness and Approval Hearing set for [redacted] at [redacted].m. in Department 53 of the Superior Court of California for the County of Sacramento located at Hall of Justice Building, 813 6th Street, Sacramento, CA 95814, and discuss your objections with the Court and the Parties at your own expense. You may also retain an attorney to represent you at the Hearing at your own expense. All objections or other correspondence must state the name and number of the case, which is *Jose Nunez, et al. v. California Custom Sunrooms & Patio Covers, Inc., et al.*, Sacramento County Superior Court Case No. 34-2020-00286923.

If you choose **Option 3**, you will still be entitled to the money from the Settlement. You will remain a member of the Settlement Class, and if the Court overrules your objections and approves the Settlement, you receive your Individual Settlement Payment and will be bound by the terms of the Settlement in the same way as Class Members who do not object, including being deemed to have released the Released Claims. You cannot both object to the settlement and exclude yourself. You must choose one option only.

Additional Information

This Notice of Class Action Settlement is only a summary of this case and the Settlement. For a more detailed statement of the matters involved in this case and the Settlement, you may refer to the pleadings, the Joint Stipulation of Settlement, and other papers filed in this case, which may be inspected at the Office of the Clerk of the Superior Court of California for the County of Sacramento, during regular business hours of each court day.

All questions by Class Members regarding this Notice of Class Action Settlement and/or the Settlement should be directed to the Claims Administrator or Class Counsel.

You can view the final approval order and final judgment and payment schedule at www.xxxxxxx.

Questions? Contact the Settlement Claims Administrator toll free at 1-*-***-******

**PLEASE DO NOT CONTACT THE CLERK OF THE COURT, THE JUDGE,
DEFENDANT, OR DEFENDANT'S ATTORNEYS WITH QUESTIONS.**

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Questions? Contact the Settlement Claims Administrator toll free at 1-*-***-*****

Share Form

Jose Nunez, et al., v. California Custom Sunrooms & Patio Covers, Inc., et al.
Superior Court of the State of California, Sacramento County
Case No. 34-2020-00286923

For all individuals who are or previously were employed by California Custom Sunrooms & Patio Covers, Inc., dba California Sunrooms (“Defendant”) in the State of California as hourly, non-exempt employees who worked at least one shift in California from October 9, 2016 to [the date of Preliminary Approval or November 10, 2021, whichever is earlier].

Your Estimated Payment

Your total Individual Settlement Payment is currently estimated at \$ _____. Your estimated pro-rata share of the Net Settlement Amount (as defined in the accompanying Notice) is: ____%. Your estimated pro-rata share may increase depending on factors such as, but not limited to, the number of Class Members who effectively exclude themselves from the Settlement. The Net Settlement Amount to be distributed to all Class Members who do not opt-out of the settlement is currently estimated to be \$ _____.

Your estimated award is based on your pro-rata percentage of the Net Settlement Amount based on your Weeks Worked as a non-exempt employee in California during the Class Period, as a percentage of all of the Class Members’ Weeks Worked in California during the Class Period as adjusted per the allocation method set forth in the Settlement and the accompanying notice. “Weeks Worked” means the number of weeks actually worked for each Class Member as a non-exempt employee during the Class Period. Workweeks are determined by calculating the number of days each Class Member actually worked during the Class Period, dividing by seven (7), and rounding up to the nearest whole number during the Class Period according to Defendant’s payroll records. Defendant’s payroll records show that during the Class Period (October 9, 2016 to [the date of Preliminary Approval or November 10, 2021, whichever is earlier]) you had a total number of Weeks Worked of _____.

YOU DO NOT NEED TO DO ANYTHING IN ORDER TO RECEIVE MONEY UNDER THE SETTLEMENT.

If you believe the total number of your Weeks Worked during the Class Period (listed above) is accurate, you do not need to take any further action in order to receive your payment.

TO CHALLENGE THE NUMBER OF YOUR WEEKS WORKED DURING THE CLASS PERIOD, THE SHARE FORM AND THE CHALLENGE PORTION OF THE FORM BELOW MUST BE SIGNED AND POSTMARKED NO LATER THAN [DATE].

CHALLENGE FORM

Important:

1. You do NOT have to complete this part of the Share Form if the total number of your Weeks Worked during the Class Period as stated above is accurate.
2. If you do submit this form, it is strongly recommended that you keep proof of timely mailing of this form until receipt of your settlement payment.
3. If you change your mailing address, please provide your new mailing address to the Settlement Administrator. It is your responsibility to keep a current address on file with the Settlement Administrator to ensure receipt of your settlement payment.

Check the box below ONLY if you wish to challenge the total number of your Work Weeks as stated above. All fields on this Challenge Form must be complete for your challenge to be accepted:

- ☐ I wish to challenge the total number of my Work Weeks. I have included a written statement detailing what I believe to be the correct number of weeks I was employed as an hourly, non-exempt employee in California during the Class Period (October 9, 2016 to [the date of Preliminary Approval or November 10, 2021, whichever is earlier]). I have also included information and/or documentary evidence that support my challenge. I understand that by submitting this challenge I authorize the Settlement Administrator to review Defendant's records and determine the validity of my challenge.

Signature

Name of Class Member _____ [preprinted]

Class Member ID Number (from address label): _____ [preprinted]

I believe that the correct number of Work Weeks I was employed as an hourly, non-exempt employee in California during the Class Period (October 6, 2016 to [the date of Preliminary Approval or November 10, 2021, whichever is earlier]) is: _____

The following is a statement of my reasons and documentation to support this number of Weeks Worked:

[Attach documentation and use separate page(s) as necessary]

Mail to:

insert address

Exhibit B

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO**

Jose Nunez, an individual,

Plaintiff,
vs.

California Custom Sunrooms & Patio Covers, Inc., dba California Sunrooms, a California Corporation; **Abe Alvi**, an individual; and **Does 1-10**, inclusive,

Defendants.

CASE NO. 34-2020-00286923

[Assigned for Law and Motion to Dept. 53]

CLASS ACTION

**[PROPOSED] ORDER PRELIMINARILY
APPROVING CLASS ACTION
SETTLEMENT PURSUANT TO THE
TERMS OF JOINT STIPULATION RE:
CLASS ACTION SETTLEMENT**

Action Filed: October 9, 2020
Trial Date: None Set

1 This matter came on for hearing on November 16, 2021 upon the Motion for Preliminary
2 Approval of the proposed settlement of this action on the terms set forth in the Joint Stipulation of
3 Settlement and Release of Class Action (the “Settlement” or “Stipulation”). Having considered
4 the Settlement, all papers and proceedings held herein, and having reviewed the entire record in
5 this action, Case No. 34-2020-00286923, entitled *Jose Nunez, et al., v. California Custom Sunrooms*
6 *& Patio Covers, Inc., et al.* (the “Action”), and good cause appearing, the Court finds that:

7 WHEREAS, plaintiff Jose Nunez (“Plaintiff”) has alleged claims against Defendants
8 California Custom Sunrooms & Patio Covers, Inc. dba California Sunrooms and Abe Alvi
9 (“Defendants”) on behalf of himself and on behalf of others similarly situated, comprising: “all
10 non-exempt, hourly employees employed by Defendants who worked at least one shift in California
11 from October 9, 2016 to the date of Preliminary Approval or November 10, 2021, whichever is
12 earlier (“Class Members”); and

13 WHEREAS, Plaintiff asserts claims in the Action against Defendants for (1) failure to pay
14 minimum wage for all hours worked; (2) failure to pay overtime wages; (3) failure to provide meal
15 periods; (4) failure to provide rest periods; (5) failure to provide compliant wage statements ; (6)
16 failure to pay wages when due; (7) failure to reimburse expenses; (8) failure to maintain accurate
17 payroll records; (9) civil penalties under the Labor Code Private Attorneys General Act of 2004,
18 Cal. Lab. Code §§ 2698, *et seq.* (“PAGA”); and (10) Unlawful Business Practices, Cal. Bus. & Prof.
19 Code §§ 17200, *et seq.*; and

20 WHEREAS, Defendants expressly deny the allegations of wrongdoing and violations of law
21 alleged in this Action, and further deny any liability whatsoever to Plaintiff or to the Class Members;
22 and

23 WHEREAS, without admitting any liability, claim, or defense, Plaintiff and Defendants
24 (collectively, the “Parties”) determined that it was mutually advantageous to settle this Action and
25 to avoid the costs, delay, uncertainty, and business disruption of ongoing litigation; and

26 WHEREAS, the Parties agreed to resolve the Action and entered into the Joint Stipulation
27 re: Class Action Settlement on or about [REDACTED], 2021, which provides for final
28 resolution of the claims asserted in the Action against Defendants on the terms and conditions set

1 forth in the Stipulation, subject to the approval of this Court;

2 NOW, therefore, the Court grants preliminary approval of the Settlement, and

3 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:**

4 1. To the extent defined in the Stipulation, incorporated herein by reference, the terms
5 in this Order shall have the meanings set forth therein.

6 2. The Court has jurisdiction over the subject matter of this Action, Defendants, and
7 the Class.

8 3. The Class is defined as follows: "all non-exempt, hourly employees employed by
9 Defendants who worked at least one shift in California from October 9, 2016 to the date of
10 Preliminary Approval or November 10, 2021, whichever is earlier."

11 4. The Class is certified as a provisional settlement class only.

12 5. The Court has determined that the intended notice to be given to the Class fully and
13 accurately informs all persons in the Class of all material elements of the proposed Settlement,
14 constitutes the best notice practicable under the circumstances, and constitutes valid, due, and
15 sufficient notice to all Class Members.

16 6. The Court hereby grants preliminary approval of the Settlement and Stipulation as
17 fair, reasonable, and adequate in all respects to the Class Members and orders the parties to
18 consummate the Settlement in accordance with the terms of the Stipulation.

19 7. The plan of distribution as set forth in the Stipulation providing for the distribution
20 of the Net Settlement Amount to Settlement Class Members is preliminarily approved as being fair,
21 reasonable, and adequate.

22 8. The Court preliminarily appoints as Class Counsel the following attorneys: Elliot J.
23 Siegel and Julian Burns King of King & Siegel LLP, 724 S. Spring Street, Suite 201, Los Angeles,
24 California 90014 and Justin Toobi of Law Offices of Justin Toobi.

25 9. The Court preliminarily approves the payment of attorneys' fees in the amount of
26 \$78,333.33 (or one-third of the Maximum Settlement Amount) to Class Counsel, which shall be
27 paid from the Maximum Settlement Amount.

28 10. The Court preliminarily approves the payment of incurred reasonable costs in an

amount not to exceed \$15,000.00 to Class Counsel, which shall be paid from the Maximum Settlement Amount.

11. The Court preliminarily approves a payment in the amount of \$11,250.00 to the California Labor & Workforce Development Agency, representing the State of California's portion of civil penalties under PAGA (or 75% of \$15,000), which shall be paid from the Maximum Settlement Amount.

12. The Court preliminarily approves the payment of incurred reasonable claims administration costs to the Settlement Administrator, in an amount not to exceed \$15,000, which shall be paid from the Maximum Settlement Amount.

13. The Court preliminarily approves an enhancement award to Plaintiff and Class Representative Jose Nunez the amount of \$10,000.00 which amount shall be paid from the Total Class Action Settlement Amount.

14. This Preliminary Approval Order and the Stipulation, and all papers related thereto, are not, and shall not be construed to be, an admission by Defendants of any liability, claim, or wrongdoing whatsoever, and shall not be offered as evidence of any such liability, claim, or wrongdoing in this Action or in any other proceeding.

15. In the event that the Settlement does not become effective in accordance with the terms of the Stipulation, then this Preliminary Approval Order shall be rendered null and void to the extent provided by and in accordance with the Stipulation and shall be vacated, and, in such event, all orders entered and releases delivered in connection herewith shall be null and void to the extent provided by and in accordance with the Stipulation, and each party shall retain his or its rights to proceed with litigation of the Action.

16. The Court orders the following Implementation Schedule¹ for further proceedings:

a.	Deadline for Defendants to submit Class Member data to Settlement Administrator	[5 <i>Business calendar days following the Preliminary Approval Date</i>]
b.	Deadline for Settlement Administrator to mail Notice to	[10 <i>calendar days following the Settlement</i>]

¹ If any date provided for by the Stipulation falls on a weekend or court holiday, the time to act shall be extended to the next business day, and will be as stated in this Implementation Schedule.

	Class Members	<i>Administrator's receipt of Class data]</i>
c.	Deadline for Class Members to postmark Requests for Exclusion from Settlement	<i>_____ [45 calendar days after the Settlement Administrator mails the Notice]</i>
d.	Deadline for Class Members to submit objections to Settlement	<i>_____ [45 calendar days after the Settlement Administrator mails the Notice]</i>
e.	Deadline for Class Counsel to file Motion for Final Approval of Settlement, including Request for Attorneys' Fees, Costs, and Enhancement Award	<i>_____ [16 Court days prior to the Final Settlement Approval Hearing]</i>
f.	Final Settlement Approval Hearing	<i>_____, 2022 at ____ a.m./p.m.</i>
g.	Deadline for Defendant to deposit the First Installment under the Settlement (\$117,500) to the Settlement Administrator	<i>_____ [10 calendar days plus 15 business days following the Effective Date of the Settlement, or June 1, 2022, whichever is later]</i>
h.	Deadline for Settlement Administrator to distribute payments to (a) the Settlement Administrator; (b) the Labor and Workforce Development Agency; (c) Class Representative; and (d) Class Counsel, in the amount approved by the Court in the Final Approval. To the extent that funds remain after these payments, the Settlement Administrator shall also send pro rata payments to Participating Class Members	<i>_____ [10 business days following receipt by the Settlement Administrator of the Total Class Action Settlement Amount]</i>
i.	Deadline for Defendant to deposit the Second Installment under the Settlement (\$117,500, plus employer-side payroll taxes) to the Settlement Administrator	<u>January 15, 2023</u>
j.	Deadline for Settlement Administrator to distribute remaining Individual Settlement Payments	<i>_____ [10 business days following receipt of the Second Installment]</i>
k.	Deadline for Settlement Administrator to file written certification with the Court that all Class Members have been mailed their Individual Settlement	<i>_____ [50 calendar days following the distribution of the Second Installment]</i>

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	Payments	
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IT IS SO ORDERED, ADJUDGED, AND DECREED.

DATED: _____

Hon. _____
Sacramento County Superior Court Judge

Exhibit C

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO**

Jose Nunez, an individual,

Plaintiff,
vs.

California Custom Sunrooms & Patio Covers, Inc., dba California Sunrooms, a California Corporation; **Abe Alvi**, an individual; and **Does 1-10**, inclusive,

Defendants.

CASE NO. 34-2020-00286923

[Assigned for Law and Motion to Dept. 53]

CLASS ACTION

**[PROPOSED] ORDER GRANTING
FINAL APPROVAL OF CLASS ACTION
SETTLEMENT AND FINAL JUDGMENT**

Action Filed: October 9, 2020
Trial Date: None Set

1 **[PROPOSED] ORDER**

2 This matter having come for hearing on _____, regarding Plaintiffs' unopposed
3 Motion for Order Granting Final Approval of Class Action Settlement on the terms set forth in the
4 Joint Stipulation of Settlement and Release of Class Action (the "Settlement Agreement").

5 In conformity with California Rules of Court, rule 3.769, with due and adequate notice
6 having been given to Class Members (as defined in the Settlement Agreement), and having
7 considered the Settlement Agreement, all of the legal authorities and documents submitted in
8 support thereof, all papers filed and proceedings had herein, all oral and written comments received
9 regarding the Settlement Agreement, and having reviewed the record in this litigation, and good
10 cause appearing, the Court **GRANTS** final approval of the Settlement Agreement and orders and
11 makes the following findings and determinations and enters final judgment as follows:

12 1. All terms used in this order shall have the same meanings given as those terms are
13 used and/or defined in the parties' Settlement Agreement and Plaintiffs' Motion for Order
14 Granting Final Approval of Class Action Settlement. A copy of the Settlement Agreement is
15 attached to the Declaration of Elliot J. Siegel in Support of Plaintiffs' Motion for Preliminary
16 Approval of Class Action Settlement as **Exhibit 1** and is made a part of this order.

17 2. The Court has personal jurisdiction over the Parties to this litigation and subject
18 matter jurisdiction to approve the Settlement Agreement and all exhibits thereto.

19 3. For settlement purposes only, the Court finally certifies the Class, as defined in the
20 Settlement and as follows:

21 *All non-exempt, hourly employees employed by Defendants who worked at least one shift in*
22 *California from October 9, 2016 to the date of Preliminary Approval or November 10, 2021,*
23 *whichever is earlier.*

24 4. The Court deems this definition sufficient for the purpose of rule 3.765(a) of the
25 California Rules of Court, and solely for the purpose of effectuating the Settlement.

26 5. The Court finds that an ascertainable class of _____ class members exists and a well-
27 defined community of interest exists on the questions of law and fact involved because in the context
28

1 of the Settlement: **(i)** all related matters, predominate over any individual questions; **(ii)** the claims
2 of the Plaintiff are typical of claims of the Class Members; and **(iii)** in negotiating, entering into and
3 implementing the Settlement, Plaintiff and Class Counsel have fairly and adequately represented
4 and protected the interest of the Class Members.

5 6. The Court is satisfied that _____, which functioned as the Settlement
6 Administrator, completed the distribution of Class Notice to the Class in a manner that comports
7 with California Rule of Court 3.766. The Class Notice informed the prospective Class Members of
8 the Settlement terms, their rights to do nothing and receive their settlement share, their rights to
9 submit a request for exclusion, their rights to comment on or object to the Settlement, and their
10 rights to appear at the Final Approval and Fairness Hearing, and be heard regarding approval of the
11 Settlement. Adequate periods of time to respond and to act were provided by each of these
12 procedures. _____ Class Members filed written objections to the Settlement as part of this notice
13 process, and _____ Class Members filed a written statement of intention to appear at the Final
14 Approval and Fairness Hearing, and _____ Class Members submitted requests for exclusion.
15 Those Class Members who requested exclusion will not be bound by the Settlement and will not
16 receive any portion of the Net Settlement Amount.

17 7. The Court finds that the Settlement Agreement has been reached as a result of
18 informed and non-collusive arm's-length negotiations. The Court further finds that the Parties have
19 conducted extensive investigation and research, and their attorneys were able to reasonably evaluate
20 their respective positions.

21 8. The Court also finds that the Settlement now will avoid additional and potentially
22 substantial litigation costs, as well as the delay and risks of the Parties if they were to continue to
23 litigate the case. Additionally, after considering the monetary recovery provided as part of the
24 Settlement in light of the challenges posed by continued litigation, and Court concludes that Class
25 Counsel secured significant relief for Class Members.

26 9. The Court hereby approves the terms set forth in the Settlement Agreement and
27 finds that the Settlement is, in all respects, fair, adequate, and reasonable, consistent and compliant
28 with all applicable requirements of the California Code of Civil Procedure, the California and

United States Constitutions, including the Due Process clauses, the California Rules of Court, and any other applicable law, and in the best interests of each of the Parties and Class Members.

10. The Court appoints Plaintiff Jose Nunez as Class Representative and finds him to be adequate.

11. The Court appoints Elliot J. Siegel and Julian Burns King of King & Siegel LLP, and Justin Toobi of the Law Offices of Justin Toobi as Class Counsel, and finds each of them to be adequate, experienced, and well-versed in class action litigation.

12. The terms of the Settlement Agreement, including the Maximum Settlement Amount of \$235,000 and the allocation for determining Individual Settlement Payments, are fair, adequate, and reasonable to the Class and to each Class Member, and the Courts grants final approval of the Settlement set forth in the Settlement Agreement, subject to this Order.

13. The Court further approves the following distributions from the Maximum Settlement Amount, which fall within the ranges stipulated by and through the Settlement Agreement:

a. The amount of [up to \$15,000] designated for payment to the Settlement Administrator is fair and reasonable. The Court grants final approval of it and orders the Parties to make the payment to the Settlement Administrator in accordance with the Settlement Agreement.

b. The \$78,333.33 amount, representing one-third of the Maximum Settlement Amount, requested by Plaintiff and Class Counsel for the Class Counsel's attorneys' fees is fair and reasonable in light of the benefit obtained for the Class. The Court grants final approval of, awards, and orders the Class Counsel fees payment to be made in accordance with the Settlement Agreement.

c. The Court awards Class Counsel \$_____ in litigation costs, which amount does not exceed \$15,000, and is an amount which the Court finds to be reflective of the actual and reasonable costs incurred. The Court grants final approval of, and orders the Class Counsel litigation expenses payment in this amount to be made in accordance with the Settlement Agreement.

1 d. The \$10,000 class representative payment requested to Plaintiff Jose Nunez
2 is fair and reasonable. The Court grants final approval of, and orders the class representative
3 payment to be made in accordance with the Settlement Agreement.

4 e. The Court approves of the \$15,000 allocation assigned for claims under the
5 Labor Code Private Attorneys General Act of 2004, and orders 75% thereof (i.e., \$11,250)
6 to be paid to the California Labor and Workforce Development Agency in accordance with
7 the terms of the Settlement Agreement.

8 14. The Court orders the Parties to comply with and carry out all terms and provisions
9 of the Settlement Agreement, to the extent that the terms thereunder do not contradict with this
10 order, in which case the provisions of this order shall take precedence and supersede the Settlement
11 Agreement.

12 15. Nothing in the Settlement or this order purports to extinguish or waive Defendants'
13 rights to continue to oppose the merits of the claims in this Action or class treatment of these claims
14 in this case if the Settlement fails to become final or effective, or in any other case without limitation.

15 16. All Participating Class Members shall be bound by the Settlement and this order,
16 including the release of claims as set forth in the Settlement Agreement.

17 17. The Parties shall bear their own respective attorneys' fees and costs except as
18 otherwise provided in this order and the Settlement Agreement.

19 18. All checks mailed to the Class Members must be cashed within one hundred and
20 twenty (120) days after mailing.

21 19. All uncashed checks will be escheated to the Controller of the State of California to
22 be held pursuant to the Unclaimed Property Law, California Civil Code § 1500, *et seq.*, for the
23 benefit of those Class Members who did not cash their checks until such time that they claim their
24 property.

25 20. No later than 10 days of this order, the Settlement Administrator shall give notice of
26 judgment to Class Members pursuant to California Rules of Court, rule 3.771(b) by posting a copy
27 of this Order and Final Judgment on its website assigned to this matter.
28

1 21. The Court retains continuing jurisdiction over the Action and the Settlement,
2 including jurisdiction pursuant to rule 3.769(h) of the California Rules of Court and Code of Civil
3 Procedure section 664.6, solely for purposes of (a) enforcing the Settlement Agreement,
4 (b) addressing settlement administration matters, and (c) addressing such post-judgment matters as
5 may be appropriate under court rules or applicable law.

6 22. Plaintiff shall file with the Court a report regarding the status of distribution no later
7 than one hundred and fifty (150) days after all funds have been distributed.

8 23. This final judgment is intended to be a final disposition of the above-captioned action
9 in its entirety and is intended to be immediately appealable. This final judgment resolves all claims
10 released by the Settlement Agreement against Defendants.

11 24. The Court hereby sets a hearing date of _____ at ____ pm/am
12 for a hearing on the final accounting and distribution of the settlement funds.

13
14 **IT IS SO ORDERED, ADJUDGED, AND DECREED.**
15

16 DATED: _____

17 _____
18 Hon. Shama H. Mesiwala
19 Sacramento County Superior Court Judge
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